

TORIN TYRELL DYSON,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:06CV971 CDP
)	
DAVE DORMIRE,)	
)	
Respondent.)	

This matter is before the Court on the petition of Torin Tyrell Dyson for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In accordance with 28 U.S.C. § 636(b), I referred the habeas petition to United States Magistrate Lewis M. Blanton for his Report and Recommendation. Judge Blanton recommended that I deny the petition because grounds seven through thirteen of Dyson’s petition are procedurally barred, and the remaining grounds are without merit. After I granted Dyson an extension of time to file objections to the Report and Recommendation, he filed a “Motion to Alter or Amend Judgement,” which I will treat as objections to the Report and Recommendation. He also filed a motion for appointment of counsel, which I will deny.

I have conducted a de novo review of all matters relevant to the petition, and conclude that the petition should be denied for the reasons stated by Judge

Blanton. Petitioner admits that he procedurally defaulted grounds seven through thirteen, and his arguments that the Missouri post-conviction procedure is deficient and that there has been a miscarriage of justice fail. Those claims are therefore procedurally defaulted. The remaining claims fail on the merits, for the reasons stated by Judge Blanton in his report. I will therefore adopt and sustain the thorough reasoning of Judge Blanton. I also agree with Judge Blanton that a certificate of appealability should not issue.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of United States Magistrate Judge Lewis R. Blanton [#13] is sustained, adopted, and incorporated herein.

IT IS FURTHER ORDERED that the petition of Torin Tyrell Dyson for writ of habeas corpus pursuant to 28 U.S.C. § 2254 [#3] is denied

IT IS FURTHER ORDERED that Dyson's "Motion to Alter or Amend Judgement" [#15] has been considered as objections and is overruled and denied.

IT IS FURTHER ORDERED that Dyson's motion for appointment of counsel [#16] is denied.

IT IS FURTHER ORDERED that as Dyson has not made a substantial showing of the denial of a constitutional right, this Court will not issue a certificate of appealability.

A separate judgment in accordance with this memorandum and order is entered this same date.

A handwritten signature in cursive script, reading "Catherine D. Perry".

CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 28th day of September, 2009.